

REFERENCE TITLE: insurance department; reports; payments; dates

State of Arizona  
Senate  
Forty-ninth Legislature  
First Regular Session  
2009

## **SB 1067**

Introduced by  
Senator Waring

AN ACT

AMENDING SECTIONS 13-3885, 20-157.01, 20-158, 20-223, 20-224, 20-286, 20-301, 20-311.01, 20-311.03, 20-321.01, 20-321.02, 20-331, 20-331.01, 20-332, 20-340.06, 20-401.05, 20-401.07, 20-411, 20-415, 20-466, 20-481.21, 20-485.03, 20-488.07, 20-831, 20-885, 20-1009, 20-1059, 20-1096.05, 20-1561 AND 33-803, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-157.02; REPEALING SECTION 20-299, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-3885, Arizona Revised Statutes, is amended to  
3 read:

4 13-3885. Arrest of principal by surety; prohibited conduct;  
5 violation; classification; definitions

6 A. For the purpose of surrendering the defendant, a surety on the bail  
7 bond of a defendant may arrest the defendant before the forfeiture of the  
8 undertaking or, by written authority attached to a certified copy of the  
9 undertaking, may empower a bail recovery agent or a bail bond agent ~~as~~  
10 ~~defined in section 20-340~~ to arrest the defendant.

11 B. A bail recovery agent or a bail bond agent shall not do any of the  
12 following:

13 1. Enter an occupied residential structure without the consent of the  
14 occupants who are present at the time of the entry.

15 2. Conduct a bail recovery arrest or apprehension without written  
16 authorization from a bail bond agent licensed in Arizona.

17 3. Wear, carry or display any uniform, badge, shield or other insignia  
18 or emblem that implies that the bail recovery agent is an employee, officer  
19 or agent of this state, a political subdivision of this state or the federal  
20 government. A bail recovery agent may display identification that indicates  
21 the agent's status as a bail recovery agent only.

22 4. Authorize or allow any third party bail recovery agent to undertake  
23 an apprehension or arrest if the bail recovery agent has been convicted in  
24 any jurisdiction of theft or of any felony or any crime involving carrying or  
25 the illegal use or possession of a deadly weapon or dangerous instrument.

26 C. The surety or bail bond agent employing, hiring as an independent  
27 contractor or otherwise utilizing a bail recovery agent shall advise the  
28 department of insurance in writing that the bail recovery agent is providing  
29 the services to the surety or bail bond agent on a given case or cases. The  
30 written notice to the department of insurance must be given within  
31 twenty-four hours after the retention and shall include the name, date of  
32 birth, home and business addresses and telephone number of the bail recovery  
33 agent. The bail recovery agent identified in the written notice shall  
34 certify on the written notice, under penalty of perjury, that the bail  
35 recovery agent has never been convicted in any jurisdiction of theft or of  
36 any felony or any crime involving carrying or the illegal use or possession  
37 of a deadly weapon or dangerous instrument and that the bail recovery agent  
38 has complied with section 20-340.04.

39 D. Bail bond agents shall provide an annual report to the department  
40 of insurance listing all bail recovery agents employed, hired as independent  
41 contractors or otherwise utilized by the bail bond agent during the year.  
42 This report shall certify that all employees of the bail bond agent have met  
43 the requirements prescribed in section 20-340.03 and that all bail recovery  
44 agents have complied with section 20-340.04. The report shall include the  
45 name, home and business addresses, date of birth, telephone number, and a

1 two-inch wide by three-inch high photograph of the face of each person  
2 identified in the report.

3 E. To satisfy the requirements of this section, a bail bond agent who  
4 is licensed in another state but WHO is not licensed in this state shall  
5 contract with a bail bond agent WHO IS licensed in this state to retain the  
6 services of a bail recovery agent in this state.

7 F. Any person who violates subsection B or E of this section is guilty  
8 of a class 5 felony. Any person who violates subsection C or D of this  
9 section is subject to the provisions of section 20-295.

10 G. For the purposes of this section:

11 1. "Bail bond agent" has the same meaning prescribed in section  
12 ~~20-282.01~~ 20-340.

13 2. "Bail recovery agent" means any person who has never been convicted  
14 in any jurisdiction of theft or of a felony or any crime involving carrying  
15 or the illegal use or possession of a deadly weapon or dangerous instrument  
16 and who is employed or hired as an independent contractor or otherwise  
17 utilized by a bail bond agent to assist the bail bond agent in presenting a  
18 defendant in court when required, in apprehending a defendant and  
19 surrendering the defendant to a court or in keeping a defendant under  
20 necessary surveillance. Bail recovery agent does not include an attorney or  
21 law enforcement officer who acts in an official capacity and who assists a  
22 bail bond agent in the bail bond agent's business.

23 3. "Occupied residential structure" means an edifice of a type that is  
24 generally used to house human beings.

25 Sec. 2. Section 20-157.01, Arizona Revised Statutes, is amended to  
26 read:

27 20-157.01. Insurer claim files; access by director; definition

28 A. Pursuant to the director's authority under sections 20-156, 20-157,  
29 20-160 and 20-466, an insurer shall comply with a request to produce any  
30 documents, reports or other materials, whether maintained in written or  
31 electronic format, from an insurer's claim file.

32 B. Any documents, reports or other materials that are provided to the  
33 director pursuant to this section are confidential and are not subject to  
34 disclosure, including discovery or subpoena, unless the subpoena is issued by  
35 the attorney general or a county attorney or by a court at the request of the  
36 attorney general, a county attorney or any other law enforcement agency. The  
37 director may only disclose the information to a state or federal agency or  
38 officer pursuant to a lawful request, subpoena or formal discovery procedure.  
39 If the requesting party cannot warrant confidentiality pursuant to section  
40 ~~20-158, subsection F~~ 20-157.02, the information that is provided pursuant to  
41 discovery, subpoena or lawful request as provided for in this subsection  
42 remains confidential. The director shall make reasonable efforts to notify  
43 an insurer of any request for a subpoena for documents, reports or other  
44 materials in an insurer claim file or record that are produced by the insurer

1 pursuant to this section so that the insurer may assert, in a court of  
2 competent jurisdiction, any applicable privileges.

3 C. The director may use the documents, reports or other materials in  
4 the furtherance of any regulatory action brought by the director or in  
5 actions brought against the director.

6 D. For the purposes of this section, "insurer claim file" includes  
7 medical records, repair estimates, adjuster notes, insurance policy  
8 provisions, recordings or transcripts of witness interviews and any other  
9 records regarding coverage, settlement, payment or denial of a claim asserted  
10 under an insurance policy.

11 Sec. 3. Title 20, chapter 1, article 2, Arizona Revised Statutes, is  
12 amended by adding section 20-157.02, to read:

13 20-157.02. Sharing of information

14 A. THE DIRECTOR MAY:

15 1. SHARE ANY NONPUBLIC DOCUMENT, MATERIAL OR OTHER INFORMATION WITH  
16 OTHER STATE, FEDERAL AND INTERNATIONAL REGULATORY AGENCIES, WITH THE NATIONAL  
17 ASSOCIATION OF INSURANCE COMMISSIONERS AND ITS AFFILIATES OR SUBSIDIARIES AND  
18 WITH STATE, FEDERAL AND INTERNATIONAL LAW ENFORCEMENT AUTHORITIES, IF THE  
19 RECIPIENT AGREES TO MAINTAIN THE CONFIDENTIALITY AND PRIVILEGED STATUS OF THE  
20 DOCUMENT, MATERIAL OR OTHER INFORMATION.

21 2. RECEIVE ANY DOCUMENT, MATERIAL OR OTHER INFORMATION FROM THE  
22 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AND ITS AFFILIATES OR  
23 SUBSIDIARIES AND FROM REGULATORY AND LAW ENFORCEMENT OFFICIALS OF OTHER  
24 FOREIGN OR DOMESTIC JURISDICTIONS AND SHALL MAINTAIN AS CONFIDENTIAL OR  
25 PRIVILEGED ANY DOCUMENT, MATERIAL OR OTHER INFORMATION RECEIVED WITH NOTICE  
26 OR THE UNDERSTANDING THAT IT IS CONFIDENTIAL OR PRIVILEGED UNDER THE LAWS OF  
27 THE JURISDICTION THAT IS THE SOURCE OF THE DOCUMENT, MATERIAL OR OTHER  
28 INFORMATION.

29 3. ENTER INTO AGREEMENTS THAT GOVERN THE SHARING AND USE OF DOCUMENTS,  
30 MATERIALS OR OTHER INFORMATION AND THAT ARE CONSISTENT WITH THIS SUBSECTION.

31 B. ANY DISCLOSURE TO THE DIRECTOR OR SHARING OF DOCUMENTS, MATERIALS  
32 OR OTHER INFORMATION PURSUANT TO THIS SECTION IS NOT A WAIVER OF ANY  
33 APPLICABLE PRIVILEGE OR CLAIM OF CONFIDENTIALITY IN ANY DOCUMENT, MATERIAL OR  
34 OTHER INFORMATION.

35 Sec. 4. Section 20-158, Arizona Revised Statutes, is amended to read:

36 20-158. Report of examinations by director

37 A. The director shall make a full written report of each examination.  
38 The director or the examiner in charge of the examination shall certify the  
39 report.

40 B. The director shall provide a copy of the report to the person  
41 examined not less than ten days before filing the report. If the person  
42 makes a request in writing within the ten day period, the director shall  
43 consider any objections the person may have to the proposed report and shall  
44 not file the report until after making any amendments the director deems  
45 proper.

1 C. The report, when filed, is admissible in evidence in any action or  
2 proceeding brought by the director against the person examined, or its  
3 officers or agents. The director or the director's examiners may at any time  
4 testify and offer other proper evidence as to information secured during the  
5 course of an examination, whether or not a written report of the examination  
6 has at that time been either made, served or filed in the director's office.

7 D. The director may withhold from public inspection any examination or  
8 investigation report for as long as the director deems prudent.

9 E. The director may disclose the nonpublic content of a report of  
10 examination, a preliminary report or any other matter relating to a report to  
11 the insurance department of any other state or jurisdiction, to law  
12 enforcement officials of this or any other state or jurisdiction or to an  
13 agency of the federal government if the agency or official receiving the  
14 report or information agrees in writing to hold the information confidential.

15 ~~F. The director may:~~

16 ~~1. Share nonpublic documents, materials or other information with~~  
17 ~~other state, federal and international regulatory agencies, with the national~~  
18 ~~association of insurance commissioners and its affiliates and subsidiaries~~  
19 ~~and with state, federal and international law enforcement authorities if the~~  
20 ~~recipient agrees and warrants that it has the authority to maintain the~~  
21 ~~confidentiality and privileged status of the documents, materials or other~~  
22 ~~information.~~

23 ~~2. Receive documents, materials and other information from the~~  
24 ~~national association of insurance commissioners and its affiliates and~~  
25 ~~subsidiaries and from regulatory and law enforcement officials of other~~  
26 ~~jurisdictions and shall maintain as confidential or privileged any document,~~  
27 ~~material or other information received with notice or the understanding that~~  
28 ~~it is confidential or privileged under the laws of the jurisdiction that is~~  
29 ~~the source of the document, material or other information.~~

30 ~~3. Enter into agreements that govern the sharing and use of documents,~~  
31 ~~materials and other information and that are consistent with this section.~~

32 ~~G. A disclosure to or by the director pursuant to this section or as a~~  
33 ~~result of sharing information pursuant to subsection F is not a waiver of any~~  
34 ~~applicable privilege or claim of confidentiality in the documents, materials~~  
35 ~~or other information disclosed or shared.~~

36 Sec. 5. Section 20-223, Arizona Revised Statutes, is amended to read:

37 20-223. Annual statement; payment of fees; penalty for failure  
38 to file or pay

39 A. Each authorized ~~domestic~~ insurer shall **SUBMIT** annually ~~on or before~~  
40 ~~March 31 and each other authorized insurer shall annually on or before March~~  
41 ~~1 file with the director, or a repository designated by the director,~~ a true  
42 statement of its financial condition, transactions and affairs as of the  
43 December 31 preceding. **THE DIRECTOR OR A REPOSITORY DESIGNATED BY THE**  
44 **DIRECTOR MUST RECEIVE THE STATEMENT ON OR BEFORE MARCH 1 OF EACH YEAR.** The  
45 statement shall be completed pursuant to the instructions and accounting

1 practices and procedures that are approved by the national association of  
2 insurance commissioners. The statement shall be in such general form and  
3 context as approved by the national association of insurance commissioners  
4 for the kinds of insurance to be reported upon, and as supplemented for  
5 additional information required by the director. The director shall adopt  
6 rules providing requirements for the filing of annual audited financial  
7 statements. Coincident with the filing of its annual statement, each such  
8 insurer shall pay such fees prescribed by section 20-167 for filing the  
9 annual statement and renewal of its certificate of authority.

10 B. The statement of an alien insurer shall relate only to its  
11 transactions and affairs in the United States unless the director requires  
12 otherwise. The statement shall be verified by the insurer's United States  
13 manager or other officer duly authorized.

14 C. The director may refuse to renew, or may suspend or revoke, the  
15 certificate of authority of any insurer ~~failing to file its~~ WHOSE annual  
16 statement or ~~pay its~~ fees WERE NOT RECEIVED BY THE DIRECTOR OR A REPOSITORY  
17 DESIGNATED BY THE DIRECTOR when due or within any extension of time ~~therefor~~  
18 ~~which~~ THAT the director, for good cause, may have granted.

19 D. Any insurer ~~failing to file an~~ WHOSE annual statement or ~~to pay its~~  
20 fees ~~pursuant to this section~~ WERE NOT RECEIVED BY THE DIRECTOR OR A  
21 REPOSITORY DESIGNATED BY THE DIRECTOR WHEN DUE is subject to payment of a  
22 penalty fee not to exceed twenty-five dollars for each day of delinquency.

23 Sec. 6. Section 20-224, Arizona Revised Statutes, is amended to read:  
24 20-224. Premium tax

25 A. ~~On or before March 1 of each year~~ Each authorized domestic insurer,  
26 each other insurer and each formerly authorized insurer referred to in  
27 section 20-206, subsection B, ~~shall file with~~ SUBMIT ANNUALLY TO the  
28 director a report in a form prescribed by the director showing total direct  
29 premium income including policy membership and other fees and all other  
30 considerations for insurance from all classes of business whether designated  
31 as a premium or otherwise received by it during the preceding calendar year  
32 on account of policies and contracts covering property, subjects or risks  
33 located, resident or to be performed in this state, after deducting from such  
34 total direct premium income applicable cancellations, returned premiums, the  
35 amount of reduction in or refund of premiums allowed to industrial life  
36 policyholders for payment of premiums direct to an office of the insurer and  
37 all policy dividends, refunds, savings coupons and other similar returns paid  
38 or credited to policyholders within this state and not reapplied as premiums  
39 for new, additional or extended insurance. No deduction shall be made of the  
40 cash surrender values of policies or contracts. Considerations received on  
41 annuity contracts, as well as the unabsorbed portion of any premium deposit,  
42 shall not be included in total direct premium income, and neither shall be  
43 subject to tax. The report shall separately indicate the total direct  
44 premium income received from fire insurance premiums on property located in  
45 an incorporated city or town that procures the services of a private fire

1 company. THE DIRECTOR MUST RECEIVE THE REPORT ON OR BEFORE MARCH 1 OF EACH  
2 YEAR.

3 B. Coincident with the filing of such tax report each insurer shall  
4 pay to the director for deposit, pursuant to sections 35-146 and 35-147, a  
5 tax of 2.0 per cent of such net premiums, except that the tax on fire  
6 insurance premiums on property located in an incorporated city or town which  
7 THAT procures the services of a private fire company is .66 per cent, the tax  
8 on all other fire insurance premiums is 2.2 per cent and the tax on health  
9 care service and disability insurance premiums is as prescribed under  
10 sections 20-837, 20-1010 and 20-1060. Any payments of tax pursuant to  
11 subsection E of this section shall be deducted from the tax payable pursuant  
12 to this subsection. Each insurer shall reflect the cost savings attributable  
13 to the lower tax in fire insurance premiums charged on property located in an  
14 incorporated city or town that procures the services of a private fire  
15 company.

16 C. Eighty-five per cent of the tax paid hereunder by an insurer on  
17 account of premiums received for fire insurance shall be separately specified  
18 in the report and shall be apportioned in the manner provided by sections  
19 9-951, 9-952 and 9-972, except that all of the tax so allocated to a fund of  
20 a municipality which THAT has no volunteer fire fighters or pension  
21 obligations to volunteer fire fighters shall be appropriated to the account  
22 of the municipality in the public safety personnel retirement system and all  
23 of the tax so allocated to a fund of a municipality which THAT has both  
24 full-time paid fire fighters and volunteer fire fighters or pension  
25 obligations to full-time paid fire fighters or volunteer fire fighters shall  
26 be appropriated to the account of the municipality in the public safety  
27 personnel retirement system where it shall be reallocated by actuarial  
28 procedures proportionately to the municipality for the account of the  
29 full-time paid fire fighters and to the municipality for the account of the  
30 volunteer fire fighters. A full accounting of such reallocation shall be  
31 forwarded to the municipality and both local boards.

32 D. This section shall not apply to title insurance, and such insurers  
33 shall be taxed as provided in section 20-1566.

34 E. Any EACH insurer which THAT paid or is required to pay a tax of two  
35 thousand dollars or more on net premiums received during the preceding  
36 calendar year, pursuant to subsection B of this section and sections  
37 20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07, shall ~~file on or before~~  
38 ~~the fifteenth day of each month from~~ SUBMIT A REPORT TO THE DIRECTOR EACH  
39 March, ~~through August a report for that month,~~ JUNE AND SEPTEMBER. THE  
40 REPORT SHALL BE on a form prescribed by the director, AND SHALL BE  
41 accompanied by a payment MADE PAYABLE TO THE DIRECTOR FOR DEPOSIT, PURSUANT  
42 TO SECTIONS 35-146 AND 35-147, in an amount equal to fifteen THIRTY per cent  
43 of the amount paid or required to be paid during the preceding calendar year  
44 pursuant to subsection B of this section and sections 20-224.01, 20-837,  
45 20-1010, 20-1060 and 20-1097.07. ~~The payments are due and payable on or~~

1 ~~before the fifteenth day of each month and shall be made to the director for~~  
2 ~~deposit, pursuant to sections 35-146 and 35-147.~~ THE DIRECTOR MUST RECEIVE  
3 THE REPORT AND PAYMENT ON OR BEFORE THE FIFTEENTH DAY OF MARCH, JUNE AND  
4 SEPTEMBER OF EACH YEAR.

5 F. Except for the tax paid on fire insurance premiums pursuant to  
6 subsections B and C of this section, an insurer may claim a premium tax  
7 credit if the insurer qualifies for a credit pursuant to section 20-224.03 or  
8 20-224.04.

9 Sec. 7. Section 20-286, Arizona Revised Statutes, is amended to read:

10 20-286. Licensure; lines of authority

11 A. Unless the director denies a license pursuant to section 20-295,  
12 the director shall issue a resident insurance producer license to any person  
13 who meets the requirements prescribed in sections 20-284 and 20-285. An  
14 insurance producer may qualify for a license in one or more of the following  
15 lines of authority:

16 1. Life. Life insurance is coverage on human lives, including  
17 benefits of endowment and annuities, and may include benefits in the event of  
18 death or dismemberment by accident and benefits for disability income.

19 2. Accident and health or sickness. Accident and health or sickness  
20 insurance is coverage for sickness, bodily injury or accidental death and may  
21 include benefits for disability income.

22 3. Property. Property insurance is coverage for the direct or  
23 consequential loss or damage to property of every kind.

24 4. Casualty. Casualty insurance is coverage against legal liability,  
25 including liability for death, injury, disability or damage to real or  
26 personal property.

27 5. Variable life and variable annuity products. Variable life and  
28 variable annuity is insurance coverage that is provided under a variable life  
29 insurance contract or a variable annuity.

30 6. Personal lines. Personal lines is property and casualty insurance  
31 coverage that is sold to individuals and families for primarily noncommercial  
32 purposes.

33 7. Credit. Credit insurance is limited line credit insurance.

34 8. Any other line of insurance allowed under state law or rules  
35 adopted by the director.

36 B. The license shall contain the licensee's name, address and  
37 identification number, the date of issuance, the lines of authority, the  
38 expiration date and any other information the director deems necessary. The  
39 director may make the information prescribed by this section available  
40 electronically.

41 C. A licensee shall inform the director in writing within thirty days  
42 of any change in the licensee's:

43 1. Residential, ~~or~~ business OR MAILING address.

44 2. Members, directors, officers or designated producer. The director  
45 may require that a licensee who notifies the director of a change pursuant to

1 this paragraph submit a full set of fingerprints of each new member,  
2 director, officer or designated producer to the director for the purpose of  
3 obtaining a state and federal criminal records check pursuant to section  
4 41-1750 and Public Law 92-544. The department of public safety may exchange  
5 this fingerprint data with the federal bureau of investigation.

6 3. Name.

7 D. In order to assist in the performance of the director's duties, the  
8 director may contract with a third party to perform any ministerial functions  
9 that are related to producer licensing and that the director deems  
10 appropriate, including the collection of fees.

11 Sec. 8. Repeal

12 Section 20-299, Arizona Revised Statutes, is repealed.

13 Sec. 9. Section 20-301, Arizona Revised Statutes, is amended to read:

14 20-301. Report of actions

15 A. Within thirty days after the final disposition of the matter, an  
16 insurance producer shall report to the director any administrative action  
17 taken against the producer in another jurisdiction or by another governmental  
18 agency in this state. The report shall include a copy of the order, consent  
19 to order or other relevant dispositive document.

20 B. Within thirty days after the EARLIER OF THE initial pretrial  
21 hearing date OR CONVICTION, an insurance producer shall report to the  
22 director any criminal prosecution of the producer taken in any jurisdiction.  
23 The report shall include a copy of the initial complaint filed, the order  
24 resulting from the hearing and all other relevant legal documents.

25 Sec. 10. Section 20-311.01, Arizona Revised Statutes, is amended to  
26 read:

27 20-311.01. Licensing of managing general agents: surety  
28 deposit: definition

29 A. A person in this state shall not act as a managing general agent of  
30 an insurer or underwriter's department unless the person is licensed by the  
31 director. A person shall apply for the license on forms designated and  
32 provided by the director. The director shall issue the license on completion  
33 and filing of the application and payment of the license fee prescribed in  
34 section 20-167.

35 B. The license expires as prescribed in section 20-289. The director  
36 may suspend or revoke the license or licenses of a managing general agent for  
37 any of the same causes and pursuant to the same procedures that apply to  
38 insurance producer licenses under article 3 of this chapter.

39 C. All managing general agents shall maintain a deposit according to  
40 section 20-581 in favor of this state to be held in trust for the benefit and  
41 protection of insureds and insurers whose monies the managing general agent  
42 handles that consists of any of the following:

43 1. Cash.

44 2. Securities eligible for investment pursuant to chapter 3, articles  
45 1 and 2 of this title.

1           3. Surety insurance as defined in section 20-257 in a form acceptable  
2 to the director and issued by a corporate surety authorized to transact  
3 business in this state. The surety insurance may include individual bonds or  
4 schedule or blanket forms of bonds. EACH BOND ISSUED PURSUANT TO THIS  
5 PARAGRAPH SHALL REMAIN IN FORCE UNTIL RELEASED BY THE DIRECTOR OR UNTIL  
6 CANCELED BY THE SURETY. THE SURETY MAY CANCEL THE BOND ON THIRTY DAYS'  
7 ADVANCE WRITTEN NOTICE FILED WITH THE DIRECTOR WITHOUT PREJUDICE TO ANY  
8 LIABILITY PREVIOUSLY INCURRED.

9           D. The amount of the deposit required by subsection C of this section  
10 is ten per cent of the amount of total monies handled by the managing general  
11 agent on behalf of insurers possessing a certificate of authority issued by  
12 the director to transact insurance in this state unless the director  
13 determines that a lesser amount is adequate for the protection of the public,  
14 except that the deposit shall not be less than fifty thousand dollars or more  
15 than one hundred thousand dollars. The amount of the deposit shall be  
16 determined by the total monies handled by the managing general agent during  
17 the preceding year, or if no monies were handled during the preceding year,  
18 the amount of monies reasonably estimated to be handled during the current  
19 calendar year by the managing general agent. The amount of the deposit is  
20 payable on the failure of the managing general agent to pay funds that it is  
21 legally obligated to pay and shall provide protection to the insurers and  
22 insureds of this state against loss by reason of acts of fraud or dishonesty.

23           E. The director may require a managing general agent to maintain an  
24 errors and omissions policy.

25           F. For THE purposes of this section, "monies" means the total amount  
26 of gross written premium less gross return premium.

27           Sec. 11. Section 20-311.03, Arizona Revised Statutes, is amended to  
28 read:

29           20-311.03. Application of other laws

30           To the extent not inconsistent with this article, section 20-281,  
31 section 20-286, subsections B, C and D, sections 20-289 and 20-289.01,  
32 section 20-290, subsection A and sections 20-291, 20-292, 20-295, 20-296,  
33 20-297, 20-298, ~~20-299~~, 20-301 and 20-302 apply to managing general agents.

34           Sec. 12. Section 20-321.01, Arizona Revised Statutes, is amended to  
35 read:

36           20-321.01. Licensing of adjusters; qualifications; exemption

37           A. A person shall not act as or claim to be an adjuster unless the  
38 person is licensed under this article OR THE PERSON IS ADJUSTING,  
39 INVESTIGATING OR NEGOTIATING THE SETTLEMENT OF CLAIMS AS A SALARIED EMPLOYEE  
40 OF AN INSURER OR OF A MANAGING GENERAL AGENT.

41           B. To obtain a license as an adjuster a person shall apply to the  
42 director for the license and use the forms prescribed and provided by the  
43 director. The director shall issue the license to qualified persons on  
44 payment of the license fee prescribed in section 20-167.

1 C. To be licensed as an adjuster the applicant shall meet all of the  
2 following qualifications:

3 1. Be a person who is at least eighteen years of age.

4 2. Be a resident of this state, or a resident of another state that  
5 allows residents of this state to act as adjusters in the other state.

6 3. Take and pass an examination that is given by or under the  
7 supervision of the director and that reasonably tests the applicant's  
8 knowledge of insurance and legal responsibilities as an adjuster.

9 4. Have and maintain in this state an office accessible to the public  
10 and keep at the office the usual and customary records pertaining to  
11 transactions under the license. This paragraph does not prohibit maintaining  
12 an office in the home of the licensee.

13 D. A firm or corporation, whether or not organized under the laws of  
14 this state, may be licensed as an adjuster if each individual who is to  
15 exercise the license powers is ~~qualified for an individual license~~  
16 INDIVIDUALLY LICENSED as an adjuster.

17 E. An adjuster who is licensed or permitted to act as an adjuster, in  
18 the state of the adjuster's domicile, is not required to be licensed pursuant  
19 to this section or meet the qualifications prescribed in this section if the  
20 adjuster is sent to this state on behalf of an insurer for the purpose of  
21 investigating or making adjustment of a particular loss under an insurance  
22 policy or a series of losses resulting from a catastrophe common to all those  
23 losses.

24 Sec. 13. Section 20-321.02, Arizona Revised Statutes, is amended to  
25 read:

26 20-321.02. Application of other laws

27 To the extent not inconsistent with this article, section 20-281,  
28 section 20-286, subsections B, C and D and sections 20-289, 20-289.01,  
29 20-291, 20-292, 20-295, 20-296, 20-297, ~~20-299~~, 20-301 and 20-302 apply to  
30 adjusters.

31 Sec. 14. Section 20-331, Arizona Revised Statutes, is amended to read:

32 20-331. Rental car agents; definitions

33 A. The director may issue to a rental company that has complied with  
34 the requirements of this section a license that authorizes the rental company  
35 as a rental car agent to offer or sell insurance in connection with and  
36 incidental to rental agreements. Notwithstanding section 20-290, subsection  
37 B, a rental car agent is not required to have an individual licensee in each  
38 office or other rental site or place where insurance is transacted.

39 B. An applicant for a rental car agent license shall file with the  
40 director a written application that is in a form prescribed by the director  
41 and that is signed by an officer of the applicant. The application shall  
42 specify all locations at which the licensee may conduct business under the  
43 license. The licensee shall provide the director at least thirty days' prior  
44 notice before conducting business under the license at any additional  
45 location.

1 C. A rental car agent may offer or sell insurance at the rental  
2 company office or other rental site or process a preselection of coverage in  
3 a master, corporate, group or individual rental agreement for any of the  
4 following kinds or types of insurance, separately or in combination:

5 1. Accident and health or sickness insurance that provides coverage,  
6 as applicable, to renters and other rental vehicle occupants for accidental  
7 death or dismemberment and reimbursement for medical expenses that result  
8 from an accident that occurs during the rental period.

9 2. Liability insurance that provides coverage, as applicable, to  
10 renters and other authorized drivers of rental vehicles for liability that  
11 arises from the operation of the rental vehicles, including uninsured and  
12 underinsured motorist coverage separately or in combination with other  
13 liability insurance.

14 3. Personal property insurance that provides coverage, as applicable,  
15 to renters and other vehicle occupants for the loss of or damage to personal  
16 effects that occurs during the rental period.

17 4. Vehicle breakdown coverage.

18 5. Physical damage insurance that provides coverage to renters and  
19 other authorized drivers of rental vehicles for property damage liability  
20 that arises from the operation of the vehicle.

21 D. A rental car agent is not subject to the continuing education  
22 requirements of chapter 18 of this title.

23 E. A rental car agent shall not offer or sell insurance pursuant to  
24 this section unless:

25 1. The rental period of the rental agreement is ninety consecutive  
26 days or less.

27 2. The rental car agent provides brochures or other written materials  
28 to the prospective renter that:

29 (a) Summarize the material terms and conditions of coverage offered to  
30 renters, including the identity of the insurer.

31 (b) Describe the process for filing a claim.

32 3. The rental car agent makes the following disclosures to the renter  
33 and the renter acknowledges the disclosures in writing:

34 (a) That the insurance policies offered by the rental car agent may  
35 provide a duplication of coverage already provided by a renter's personal  
36 automobile insurance policy or by another source of coverage.

37 (b) That the purchase by the renter of the kinds of insurance  
38 prescribed in this section is not required in order to rent a vehicle.

39 4. Evidence of coverage is stated on the face of the rental agreement.

40 5. Costs for the insurance are separately itemized in the rental  
41 agreement.

42 6. The insurance is provided under a group or master policy issued to  
43 the rental company by an insurer authorized to transact the applicable kinds  
44 or types of insurance in this state or by a surplus lines insurer in  
45 accordance with article 5 of this chapter.

1 F. Any salaried employee of a rental car agent may act on behalf and  
2 under the supervision of the rental car agent in matters relating to the  
3 conduct of business under the license issued pursuant to this section. The  
4 conduct of an employee or agent of a rental car agent acting within the scope  
5 of employment or agency is deemed the conduct of the rental car agent for  
6 purposes of this article.

7 G. Each rental car agent licensed pursuant to this section shall  
8 conduct a training program that provides employees and agents of the rental  
9 company with basic instruction about the provisions of this section,  
10 including the kinds of coverage prescribed in this section.

11 H. A rental car agent shall not:

12 1. Offer or sell insurance except in conjunction with and incidental  
13 to rental agreements.

14 2. Advertise, represent or otherwise portray itself or any of its  
15 employees or agents as licensed insurers or insurance producers.

16 3. Pay any person any compensation, fee or commission dependent on the  
17 placement of insurance under the license issued pursuant to this section.

18 I. Nothing in this section prohibits production payments or incentive  
19 payments to an employee if the payments are not dependent on the sale of  
20 insurance.

21 J. To the extent not inconsistent with this article, section 20-281,  
22 section 20-286, subsections B, C and D, sections 20-289 and 20-289.01,  
23 section 20-290, subsection A and sections 20-291, 20-292, 20-295, 20-296,  
24 20-297, 20-298, ~~20-299~~, 20-301 and 20-302 apply to rental car agents.

25 K. For the purposes of this section:

26 1. "Rental agreement" means any written agreement that states the  
27 terms and conditions that govern the use of a vehicle provided by the rental  
28 company for rent or lease for a rental period of ninety days or less.

29 2. "Rental car agent" means a rental company that is licensed pursuant  
30 to this section.

31 3. "Rental company" means any firm or corporation in the business of  
32 renting vehicles to renters under a rental agreement.

33 4. "Rental period" means the term of the rental agreement.

34 5. "Rental vehicle" or "vehicle" means a motor vehicle operated by a  
35 driver who is not required to possess a commercial driver license to operate  
36 the motor vehicle and the motor vehicle is either:

37 (a) A private passenger motor vehicle, including a passenger van,  
38 minivan or sport utility vehicle.

39 (b) A cargo vehicle, including a cargo van, pickup truck and truck  
40 with a gross vehicle weight of less than twenty-six thousand pounds.

41 6. "Renter" means any person who obtains the use of a vehicle from a  
42 rental company under the terms of a rental agreement.



1 (a) Summarize the material terms of insurance coverage offered to  
2 occupants, including the identity of the insurer, price, benefits, exclusions  
3 and conditions.

4 (b) Disclose that the policies offered by the self-service storage  
5 agent may provide a duplication of coverage already provided by an occupant's  
6 homeowner's insurance policy, renter's insurance policy, vehicle insurance  
7 policy, watercraft insurance policy or other source of property insurance  
8 coverage.

9 (c) State that if insurance is required as a condition of rental, the  
10 requirement may be satisfied by the occupant purchasing the insurance  
11 prescribed in this section or by presenting evidence of other applicable  
12 insurance coverage.

13 (d) Describe the process for filing a claim.

14 2. All costs related to the insurance are clearly itemized in writing.

15 3. Evidence of coverage in a form approved by the insurer is provided  
16 to every occupant who purchases the coverage.

17 4. The insurance is provided by an insurer authorized to transact the  
18 applicable kinds of insurance in this state or by a surplus lines insurer  
19 pursuant to article 5 of this chapter.

20 E. An employee or agent of a self-service storage agent may act on  
21 behalf of and under the supervision of the self-service storage agent in  
22 matters relating to the conduct of business under the license that is issued  
23 pursuant to this section. The conduct of an employee or agent of a  
24 self-service storage agent acting within the scope of employment or agency is  
25 deemed the conduct of the self-service storage agent for THE purposes of this  
26 section.

27 F. Each self-service storage agent shall provide a training program  
28 that gives employees and agents of the self-service storage agent basic  
29 instruction about the provisions of this section, including the kinds of  
30 insurance coverage prescribed in this section.

31 G. A self-service storage agent shall not:

32 1. Offer or sell insurance except in connection with and incidental to  
33 the rental of space at a self-service storage facility.

34 2. Advertise, represent or otherwise portray itself or any of its  
35 employees or agents as licensed insurers or insurance producers.

36 3. Pay any person any commission or other compensation dependent on  
37 the sale of insurance under the self-service storage agent license that is  
38 issued pursuant to this section.

39 H. Nothing in this section prohibits:

40 1. An insurer from paying, and a self-service storage agent from  
41 receiving, a commission, service fee or other valuable consideration  
42 dependent on the sale of insurance.

43 2. A self-service storage agent from paying, and its employees or  
44 agents from receiving, production payments or incentive payments if the  
45 payments are not dependent on the sale of insurance.

1 I. An operator is not required to be licensed pursuant to this section  
2 merely to display and make available to prospective occupants brochures and  
3 other promotional materials created by or on behalf of an authorized insurer  
4 or by a surplus lines insurer pursuant to article 5 of this chapter.

5 J. To the extent not inconsistent with this section, sections 20-281,  
6 20-282, 20-283, 20-288 and 20-289, section 20-290, subsection A and sections  
7 20-291, 20-292, 20-293, 20-295, 20-296, 20-297, 20-298, ~~20-299~~, 20-301 and  
8 20-302 apply to self-service storage agents. A self-service storage agent is  
9 not subject to the continuing education requirements of chapter 18 of this  
10 title.

11 K. For the purposes of this section:

12 1. "Occupant" means a person or the person's sublessee, successor or  
13 assign who is entitled to the use of a leased space or spaces at a  
14 self-service storage facility, to the exclusion of others.

15 2. "Operator" means the owner or owner's managing agent of a  
16 self-service storage facility.

17 3. "Personal property" means movable property that is not affixed to  
18 land and includes:

19 (a) Goods, wares, merchandise, household items and furnishings.

20 (b) Vehicles, motor vehicles, trailers and semitrailers as those terms  
21 are defined in section 28-101.

22 (c) Watercraft and motorized watercraft as those terms are defined in  
23 section 5-301.

24 4. "Self-service storage agent" means an operator who is licensed  
25 pursuant to this section.

26 5. "Self-service storage facility" means any real property that is  
27 used for renting or leasing storage space in which the occupants themselves  
28 customarily store and remove personal property on a self-service basis.

29 Sec. 17. Section 20-340.06, Arizona Revised Statutes, is amended to  
30 read:

31 20-340.06. Application of other laws

32 To the extent not inconsistent with this article, sections 20-281,  
33 20-284 and 20-285, section 20-286, subsections B, C and D, section 20-288,  
34 subsection B and sections 20-289, 20-289.01, 20-292, 20-295, 20-296, 20-297,  
35 20-298, ~~20-299~~, 20-301 and 20-302 apply to bail bond agents.

36 Sec. 18. Section 20-401.05, Arizona Revised Statutes, is amended to  
37 read:

38 20-401.05. Certificate of exemption; definitions

39 A. On July 1 of each year, the director shall grant a certificate of  
40 exemption to any insurer, employee benefit trust or voluntary employees'  
41 beneficiary association transacting life insurance, disability insurance or  
42 annuity business, or providing other health or welfare benefits, under the  
43 laws of its domicile that:

44 1. Is organized and operated without profit to any person, firm,  
45 partnership, association, corporation or other entity.

1           2. Is organized and operated exclusively for either of the following  
2 purposes:

3           (a) Aiding educational or scientific institutions that are also  
4 organized and operated without profit to any person, firm, partnership,  
5 association, corporation or other entity.

6           (b) Aiding agricultural institutions if the grantee is subject to  
7 regulation either as an insurer, a multiple employer welfare arrangement or  
8 an employee benefit trust by its state of domicile.

9           3. Serves a purpose prescribed in paragraph 2 **OF THIS SUBSECTION** by  
10 issuing insurance, annuity and employee benefits contracts only to or for the  
11 benefit of the educational, scientific or agricultural institutions or their  
12 respective members or to individuals engaged in the service of those  
13 institutions.

14           4. Appoints the secretary of state, and the secretary of state's  
15 successors in office, as its true and lawful attorney on whom may be served  
16 all lawful process in any action, suit or proceeding in any court by the  
17 director of insurance, through the attorney general, or any action or  
18 proceeding against the insurer, employee benefit trust or voluntary  
19 employees' beneficiary association brought by someone other than the director  
20 of insurance, which appointment is irrevocable, binds the insurer, employee  
21 benefit trust or voluntary employees' beneficiary association or any  
22 successor in interest, remains in effect as long as there is in force in this  
23 state any contract or policy made or issued by the insurer, employee benefit  
24 trust or voluntary employees' beneficiary association or any obligation  
25 arising therefrom and must be processed in accordance with sections 20-401.03  
26 and 20-403.

27           5. Is fully and legally organized and qualified to do business and has  
28 been actively doing business under the laws of the state of its domicile for  
29 a period of at least twenty years before its application for a certificate of  
30 exemption.

31           6. Files with the director for the director's approval a copy of any  
32 policy or contract form issued to residents of this state.

33           7. Files with the director on or before March 1 of each year a copy of  
34 its annual statement prepared pursuant to the laws of its state of domicile,  
35 as well as any other financial material as may be requested, including the  
36 annual statement or such other financial materials as may be requested  
37 relating to any subsidiary or other legal entity operated by the insurer,  
38 employee benefit trust or voluntary employees' beneficiary association under  
39 a management contract or other form of agreement, and coincident with the  
40 filing of its annual statement, pays the filing fee prescribed in section  
41 20-167.

42           8. Agrees to submit to periodic examinations as may be deemed  
43 necessary by the director.

44           B. ~~On or before March 1 of each year, any~~ **EACH** insurer holding a  
45 certificate of exemption shall ~~file with~~ **SUBMIT ANNUALLY TO** the director a

1 ~~form of~~ premium tax return **ON A FORM** prescribed by the director and shall pay  
2 the premium tax imposed by section 20-224 on all policies of life insurance  
3 and disability insurance in force with residents of this state. **THE DIRECTOR**  
4 **MUST RECEIVE THE PREMIUM TAX RETURN AND PAYMENT ON OR BEFORE MARCH 1 OF EACH**  
5 **YEAR.**

6 C. After a hearing, the director may refuse to renew, or may revoke or  
7 suspend, a certificate of exemption if the director finds that the insurer,  
8 employee benefit trust or voluntary employees' beneficiary association no  
9 longer meets the requirements of this section, or finds that the insurer,  
10 employee benefit trust or voluntary employees' beneficiary association has  
11 violated any provisions of article 6 of this chapter.

12 D. For the purposes of this section:

13 1. "Agricultural institutions" means agricultural growers, shippers,  
14 packers, brokers, distributors, wholesalers, receivers and jobbers, or  
15 affiliated, associated and related suppliers, industries or firms.

16 2. "Voluntary employees' beneficiary association" means an association  
17 described in 26 United States Code section 501(c)(9).

18 Sec. 19. Section 20-401.07, Arizona Revised Statutes, is amended to  
19 read:

20 20-401.07. Premium receipts tax on industrial insureds  
21 contracting with unauthorized insurer; definitions

22 A. ~~Every~~ **EACH** industrial insured under a contract procured from an  
23 unauthorized insurer shall pay to the director ~~before March 1 next succeeding~~  
24 ~~the calendar year in which the insurance was so effectuated, continued or~~  
25 ~~renewed~~ a premium receipts tax of three per cent of the gross premiums, less  
26 premiums returned on account of cancellation or reduction of premium, charged  
27 for insurance on subjects resident, located or to be performed in this state.  
28 ~~Such~~ **THE DIRECTOR MUST RECEIVE THE PREMIUM RECEIPT TAX PAYMENT ON OR BEFORE**  
29 **MARCH 1 FOLLOWING THE CALENDAR YEAR IN WHICH THE INSURANCE WAS EFFECTUATED,**  
30 **CONTINUED OR RENEWED. THE** insurance, whether procured through negotiation or  
31 an application, in whole or in part occurring or made within or outside of  
32 this state, or for which premiums in whole or in part are remitted directly  
33 or indirectly from within or outside of this state, shall be deemed to be  
34 insurance effectuated or continued in this state. If a contract covers risks  
35 or exposures only partly in this state, the tax payable shall be computed on  
36 the portions of the premium that are properly allocable to the risks or  
37 exposures located in this state. Proration of premium taxes due from an  
38 industrial insured under a contract procured from an unauthorized insurer  
39 having property in states other than Arizona shall be determined by rules  
40 adopted by the director using the following criteria where applicable:

- 41 1. Percentage of physical assets in Arizona.
- 42 2. Percentage of employee payroll in Arizona.
- 43 3. Percentage of sales in Arizona.
- 44 4. Percentage of taxable income reportable in Arizona.

45 B. For **THE** purposes of this section:

1           1. "Industrial insured" means an insured that applies for or procures  
2 any insurance that is subject to article 4.1 of this chapter through the use  
3 of a risk manager and that meets at least two of the following criteria:

4           (a) Has aggregate annual gross premiums for insurance on all property  
5 and casualty risks that are subject to article 4.1 of this chapter totaling  
6 at least one hundred thousand dollars as of the preceding fiscal year end of  
7 the industrial insured.

8           (b) Possesses a net worth of over ten million dollars as of the  
9 preceding fiscal year end of the industrial insured as verified by a  
10 certified public accountant.

11           (c) Has net revenues or sales exceeding twenty-five million dollars as  
12 of the preceding fiscal year end of the industrial insured as verified by a  
13 certified public accountant.

14           (d) Has more than eighty full-time employees or equivalent per  
15 individual company or one hundred full-time employees or equivalent per  
16 holding company system as of the date the policy is issued.

17           2. "Risk manager" means a full-time employee of the industrial insured  
18 or a third party consultant who is retained by the industrial insured, who  
19 provides skilled services in loss prevention, loss reduction, risk and  
20 insurance coverage analysis and the purchase of insurance and who possesses  
21 at least one of the following qualifications:

22           (a) A baccalaureate or higher degree in risk management that is issued  
23 by an accredited college or university.

24           (b) A designation as a chartered property and casualty underwriter  
25 that is issued by an insurance institute.

26           (c) A designation as a certified insurance counselor that is issued by  
27 a society of certified insurance counselors.

28           (d) A designation as an associate in risk management that is issued by  
29 an insurance institute.

30           (e) A designation as a certified risk manager that is issued by a  
31 national alliance for insurance education and research.

32           (f) A designation as a fellow in risk management that is issued by a  
33 global risk management institute.

34           (g) Any other similar qualification that, before the employee or  
35 consultant applies for or procures any insurance that is subject to article  
36 4.1 of this chapter, the director determines is sufficient, other than a  
37 license as an insurance producer pursuant to article 3 of this chapter.

38           Sec. 20. Section 20-411, Arizona Revised Statutes, is amended to read:  
39           20-411. Licensing of surplus lines broker; examination

40           A. A person shall not act as a surplus lines broker in this state  
41 unless the person has a current surplus lines broker license issued by the  
42 director.

43           B. Any individual who is a resident of this state and who is licensed  
44 as a resident insurance producer authorized for property or casualty  
45 insurance in this state may also be licensed as a resident surplus lines

1 broker if the director determines that the insurance producer is competent  
2 and trustworthy. The director shall prescribe and furnish application forms.

3 C. Each individual applicant for an original license as a resident  
4 surplus lines broker or for renewal of a resident surplus lines broker  
5 license who has not previously taken and passed a surplus lines broker  
6 license examination in this state shall take and pass to the director's  
7 satisfaction a written examination given by or under the supervision of the  
8 director. The examination shall reasonably test the applicant's knowledge of  
9 surplus lines insurance and the legal responsibilities of a surplus lines  
10 broker.

11 D. The director may issue a resident surplus lines broker license to  
12 any business entity that is licensed as a resident property or casualty  
13 insurance producer in this state and that satisfies all of the requirements  
14 prescribed by section 20-285, subsections C and D.

15 E. At least one individual in each office or place where surplus lines  
16 insurance is transacted in this state shall be licensed pursuant to this  
17 title as either an insurance producer authorized for property or casualty  
18 insurance or a managing general agent for property or casualty insurance, and  
19 shall be licensed pursuant to this article as a surplus lines broker.

20 F. The license prescribed in this section shall expire and be subject  
21 to renewal coincidental to, and in the same manner as, other insurance  
22 license authority as prescribed in section 20-289. The director shall charge  
23 the surplus lines broker license fee prescribed in section 20-167, except  
24 that, from and after June 30, 2005, a licensee adding surplus lines broker  
25 authority to an existing insurance license shall be charged one-half the  
26 surplus lines broker license fee if less than two years remain in the term of  
27 the existing insurance license as of the date the director receives the  
28 application to add surplus lines broker authority to the existing insurance  
29 license.

30 G. To the extent not inconsistent with this article, section 20-281,  
31 section 20-283, subsection B, paragraph 6, section 20-286, subsection C and  
32 sections 20-287, 20-289, 20-291, 20-292, 20-295, 20-296, 20-297, 20-298,  
33 ~~20-299~~, 20-300, 20-301 and 20-302 apply to surplus lines brokers.

34 Sec. 21. Section 20-415, Arizona Revised Statutes, is amended to read:

35 20-415. Statement of surplus lines insurance business  
36 transacted by broker; reporting periods

37 A. ~~Beginning January 1, 1998,~~ Each surplus lines broker shall ~~file~~  
38 ~~SUBMIT~~ semiannually ~~with TO~~ the director a ~~notarized~~ statement of all surplus  
39 lines insurance business transacted by the broker during the period for which  
40 the statement is being filed. ~~THE DIRECTOR MUST RECEIVE THE STATEMENT ON OR~~  
41 ~~BEFORE THE DUE DATES SPECIFIED IN SUBSECTION B.~~ The statement shall be on a  
42 form prescribed by the director and shall show:

- 43 1. Gross amount of each kind of insurance transacted.
- 44 2. Aggregate gross premiums charged.
- 45 3. Aggregate of return premiums paid to insureds.

1           4. Aggregate of net premiums.

2           5. Such additional information as may reasonably be required by the  
3 director.

4           B. The statement is due on or before March 1 of each year for the  
5 preceding July through December and on or before September 1 of each year for  
6 the preceding January through June.

7           Sec. 22. Section 20-466, Arizona Revised Statutes, is amended to read:  
8           20-466. Fraud unit; peace officer status; powers; information  
9                           sharing duty of insurers

10          A. A fraud unit is established in the department of insurance.

11          B. The fraud unit shall work in conjunction with the department of  
12 public safety.

13          C. The director may investigate any act or practice of fraud  
14 prohibited by section 20-466.01 and any other act or practice of fraud  
15 against an insurer or entity licensed under this title. The director shall  
16 administer the fraud unit.

17          D. The director may employ investigators for the fraud unit. A fraud  
18 unit investigator has and shall exercise the law enforcement powers of a  
19 peace officer of this state but only while acting in the course and scope of  
20 employment for the department. The director shall adopt guidelines for the  
21 conduct of investigations that are substantially similar to the investigative  
22 policy and procedural guidelines of the department of public safety for peace  
23 officers. Fraud unit investigators shall not preempt the authority and  
24 jurisdiction of other law enforcement agencies of this state or its political  
25 subdivisions. Fraud unit investigators:

26           1. Shall have at least the qualifications prescribed by the Arizona  
27 peace officer standards and training board pursuant to section 41-1822.

28           2. Are not eligible to participate in the public safety personnel  
29 retirement system established by title 38, chapter 5, article 4 due solely to  
30 employment as fraud unit investigators.

31          E. The director may request the submission of papers, documents,  
32 reports or other evidence relating to an investigation under this section.  
33 The director may issue subpoenas and take other actions pursuant to section  
34 20-160. The materials are privileged and confidential until the director  
35 completes the investigation. Any documents, materials or other information  
36 that is provided to the director pursuant to this section is not subject to  
37 discovery or subpoena until opened for public inspection by the director or,  
38 after notice and a hearing, a court determines that the director would not be  
39 unduly burdened by compliance with the subpoena. The director shall keep the  
40 identity of an informant confidential, including any information that might  
41 identify the informant, unless the request for information is made by a law  
42 enforcement agency, the attorney general or a county attorney for purposes of  
43 a criminal investigation or prosecution. The director may use the documents,  
44 materials or other information in the furtherance of any regulatory or legal  
45 action brought as a part of the director's official duties.

1 F. If the documents, materials or other information the director seeks  
2 to obtain by request is located outside this state, the person requested to  
3 provide the documents, materials or other information shall arrange for the  
4 fraud unit or a representative, including an official of the state in which  
5 the documents, materials or other information is located, to examine the  
6 documents, materials or other information where it is located. The director  
7 may respond to similar requests from other states.

8 G. An insurer that believes a fraudulent claim has been or is being  
9 made shall send to the director, on a form prescribed by the director,  
10 information relative to the claim including the identity of parties claiming  
11 loss or damage as a result of an accident and any other information the fraud  
12 unit may require. The director shall review the report and determine if  
13 further investigation is necessary. If the director determines that further  
14 investigation is necessary, the director may conduct an independent  
15 investigation to determine if fraud, deceit or intentional misrepresentation  
16 in the submission of the claim exists. If the director is satisfied that  
17 fraud, deceit or intentional misrepresentation of any kind has been committed  
18 in the submission of a claim, the director may report the violations of the  
19 law to the reporting insurer, to the appropriate licensing agency as defined  
20 in section 20-466.04 and to the appropriate county attorney or the attorney  
21 general for prosecution.

22 ~~H. The director may:~~

23 ~~1. Share nonpublic documents, materials or other information with~~  
24 ~~other state, federal and international regulatory agencies, with the national~~  
25 ~~association of insurance commissioners and its affiliates and subsidiaries~~  
26 ~~and with state, federal and international law enforcement authorities if the~~  
27 ~~recipient agrees and warrants that it has the authority to maintain the~~  
28 ~~confidentiality and privileged status of the documents, materials or other~~  
29 ~~information.~~

30 ~~2. Receive documents, materials and other information from the~~  
31 ~~national association of insurance commissioners and its affiliates and~~  
32 ~~subsidiaries and from regulatory and law enforcement officials of other~~  
33 ~~jurisdictions and shall maintain as confidential or privileged any document,~~  
34 ~~material or other information received with notice or the understanding that~~  
35 ~~it is confidential or privileged under the laws of the jurisdiction that is~~  
36 ~~the source of the document, material or other information.~~

37 ~~3. Enter into agreements that govern the sharing and use of documents,~~  
38 ~~materials and other information and that are consistent with this section.~~

39 ~~I. A disclosure to or by the director pursuant to this section or as a~~  
40 ~~result of sharing information pursuant to subsection G of this section is not~~  
41 ~~a waiver of any applicable privilege or claim of confidentiality in the~~  
42 ~~documents, materials or other information disclosed or shared.~~

43 ~~J.~~ H. The director shall annually assess each insurer as defined in  
44 section 20-441, subsection B authorized to transact business in this state up  
45 to one thousand fifty dollars, as annually adjusted pursuant to this

1 subsection for the administration and operation of the fraud unit and the  
2 prosecution of fraud pursuant to this section. Monies collected shall be  
3 deposited, pursuant to sections 35-146 and 35-147, in the state general fund.  
4 The director shall ~~annually~~ revise ANNUALLY the assessment amount in such a  
5 manner that the revenue derived from the assessment equals at least  
6 ninety-five per cent but not more than one hundred ten per cent of the  
7 appropriated budget of the fraud unit for the prior fiscal year.

8 ~~K.~~ I. A person, or an officer, employee or agent of the person acting  
9 within the scope of employment or agency of that officer, employee or agent,  
10 who in good faith files a report or provides other information to the fraud  
11 unit pursuant to this section is not subject to civil or criminal liability  
12 for reporting that information to the fraud unit.

13 Sec. 23. Section 20-481.21, Arizona Revised Statutes, is amended to  
14 read:

15 20-481.21. Confidential records; consent to release; release  
16 without consent

17 ~~A.~~ All documents, materials or other information that is in the  
18 possession or control of the department and that is obtained by or disclosed  
19 to the director or any other person in the course of a filing, an examination  
20 or an investigation made pursuant to sections 20-481.03, 20-481.10,  
21 20-481.12, 20-481.19 and 20-481.20 is confidential and privileged, is not  
22 subject to title 39, chapter 1, article 2 and is not subject to subpoena.  
23 The director may use the documents, materials or other information in the  
24 furtherance of any regulatory or legal action brought as a part of the  
25 director's official duties. The director shall not make the documents,  
26 materials or other information public without the prior written consent of  
27 the insurer to which it pertains unless the director determines, after giving  
28 the insurer and its affiliates who would be affected by the publication  
29 notice and an opportunity to be heard, that the interests of policyholders,  
30 shareholders or the public will be served by the publication. The director  
31 may then publish all or any part of the documents, materials or other  
32 information as the director deems appropriate.

33 ~~B. The director may:~~

34 ~~1. Share nonpublic documents, materials or other information with~~  
35 ~~other state, federal and international regulatory agencies, with the national~~  
36 ~~association of insurance commissioners and its affiliates and subsidiaries~~  
37 ~~and with state, federal and international law enforcement authorities if the~~  
38 ~~recipient agrees and warrants that it has the authority to maintain the~~  
39 ~~confidentiality and privileged status of the documents, materials or other~~  
40 ~~information.~~

41 ~~2. Receive documents, materials and other information from the~~  
42 ~~national association of insurance commissioners and its affiliates and~~  
43 ~~subsidiaries and from regulatory and law enforcement officials of other~~  
44 ~~jurisdictions and shall maintain as confidential or privileged any document,~~  
45 ~~material or other information received with notice or the understanding that~~

1 ~~it is confidential or privileged under the laws of the jurisdiction that is~~  
2 ~~the source of the document, material or other information.~~

3 ~~3. Enter into agreements that govern the sharing and use of documents,~~  
4 ~~materials and other information and that are consistent with this section.~~

5 ~~C. A disclosure to or by the director pursuant to this section or as a~~  
6 ~~result of sharing information pursuant to subsection B of this section is not~~  
7 ~~a waiver of any applicable privilege or claim of confidentiality in the~~  
8 ~~documents, materials or other information disclosed or shared.~~

9 Sec. 24. Section 20-485.03, Arizona Revised Statutes, is amended to  
10 read:

11 20-485.03. Maintenance of records; access; confidentiality;  
12 examination

13 A. Every administrator shall maintain at the administrator's principal  
14 administrative office for the duration of the written agreement required by  
15 section 20-485.01 and for five years thereafter adequate books and records of  
16 all transactions among the administrator, insurers and insured persons. The  
17 books and records shall be maintained in accordance with prudent standards of  
18 insurance record keeping.

19 B. The director shall have access to books and records maintained by  
20 the administrator for the purpose of examination, audit and inspection. Any  
21 trade secrets contained in the books and records, including the identity and  
22 addresses of policyholders and certificate holders, shall be confidential,  
23 except the director may use the information in any proceedings instituted  
24 against the administrator.

25 ~~C. The director may:~~

26 ~~1. Share nonpublic documents, materials or other information with~~  
27 ~~other state, federal and international regulatory agencies, with the national~~  
28 ~~association of insurance commissioners and its affiliates and subsidiaries~~  
29 ~~and with state, federal and international law enforcement authorities if the~~  
30 ~~recipient agrees and warrants that it has the authority to maintain the~~  
31 ~~confidentiality and privileged status of the documents, materials or other~~  
32 ~~information.~~

33 ~~2. Receive documents, materials and other information from the~~  
34 ~~national association of insurance commissioners and its affiliates and~~  
35 ~~subsidiaries and from regulatory and law enforcement officials of other~~  
36 ~~jurisdictions and shall maintain as confidential or privileged any document,~~  
37 ~~material or other information received with notice or the understanding that~~  
38 ~~it is confidential or privileged under the laws of the jurisdiction that is~~  
39 ~~the source of the document, material or other information.~~

40 ~~3. Enter into agreements that govern the sharing and use of documents,~~  
41 ~~materials and other information and that are consistent with this section.~~

42 ~~D. A disclosure to or by the director pursuant to this section or as a~~  
43 ~~result of sharing information pursuant to subsection C of this section is not~~  
44 ~~a waiver of any applicable privilege or claim of confidentiality in the~~  
45 ~~documents, materials or other information disclosed or shared.~~

1 ~~E.~~ C. The insurer retains the right of continuing access to books and  
2 records maintained by the administrator sufficient to permit the insurer to  
3 fulfill all of its contractual obligations to insured persons, subject to any  
4 restrictions in the written agreement between the insurer and administrator  
5 on the proprietary rights of the parties in such books and records.

6 ~~F.~~ D. The director may require an administrator to provide, on a  
7 quarterly basis in a form acceptable to the director, additional information  
8 that is necessary for the protection of the public.

9 ~~G.~~ E. The director may examine the business practices, books and  
10 records of any administrator as often as the director deems appropriate. The  
11 administrator shall pay the cost of only one examination each year.

12 Sec. 25. Section 20-488.07, Arizona Revised Statutes, is amended to  
13 read:

14 20-488.07. Confidentiality

15 A. With respect to a domestic insurer or foreign insurer, the director  
16 shall keep confidential all information that is contained in RBC reports and  
17 that is not required to be set forth in a public annual statement schedule  
18 and all RBC plans that are filed with the director, including the results or  
19 report of an examination or analysis of an insurer that is performed pursuant  
20 to this article and any corrective order that is issued by the director.  
21 This information shall not be made public and is not subject to subpoena,  
22 except that the director may subpoena the information for the purpose of  
23 enforcing the insurance laws of this state.

24 B. An assertion, representation or statement regarding the RBC levels  
25 of an insurer or any component derived by any insurer, insurance producer or  
26 other person engaged in the transaction of insurance business shall not be  
27 published, disseminated, circulated or placed before the public in any  
28 printed medium and shall not be advertised, announced or stated through  
29 radio, television or any other electronic medium.

30 C. Notwithstanding subsection B, an insurer may publish an  
31 announcement in a written publication for the purpose of rebutting a  
32 materially false statement that is made with respect to the comparison  
33 regarding the insurer's total adjusted capital to its RBC levels or with  
34 respect to an inappropriate comparison of any other amount to the insurer's  
35 RBC levels, that is published in a written publication and that the insurer  
36 is able to demonstrate to the director with substantial proof is false or  
37 inappropriate.

38 D. The RBC instructions, RBC reports, adjusted RBC reports, RBC plans  
39 and revised RBC plans are intended solely for use by the director in  
40 monitoring the solvency of insurers and the need for possible corrective  
41 action with respect to insurers. The director shall not use the RBC  
42 instructions, RBC reports, adjusted RBC reports, RBC plans and revised RBC  
43 plans for rate making, shall not consider or introduce them as evidence in  
44 any rate making proceeding and shall not use them to calculate or derive any

1 elements of an appropriate premium level or rate of return for any line of  
2 insurance that an insurer or any affiliate is authorized to write.

3 ~~E. The director may:~~

4 ~~1. Share nonpublic documents, materials or other information with~~  
5 ~~other state, federal and international regulatory agencies, with the national~~  
6 ~~association of insurance commissioners and its affiliates and subsidiaries~~  
7 ~~and with state, federal and international law enforcement authorities if the~~  
8 ~~recipient agrees and warrants that it has the authority to maintain the~~  
9 ~~confidentiality and privileged status of the documents, materials or other~~  
10 ~~information.~~

11 ~~2. Receive documents, materials and other information from the~~  
12 ~~national association of insurance commissioners and its affiliates and~~  
13 ~~subsidiaries and from regulatory and law enforcement officials of other~~  
14 ~~jurisdictions and shall maintain as confidential or privileged any document,~~  
15 ~~material or other information received with notice or the understanding that~~  
16 ~~it is confidential or privileged under the laws of the jurisdiction that is~~  
17 ~~the source of the document, material or other information.~~

18 ~~3. Enter into agreements that govern the sharing and use of documents,~~  
19 ~~materials and other information and that are consistent with this section.~~

20 ~~F. A disclosure to or by the director pursuant to this section or as a~~  
21 ~~result of sharing information pursuant to subsection E is not a waiver of any~~  
22 ~~applicable privilege or claim of confidentiality in the documents, materials~~  
23 ~~or other information disclosed or shared.~~

24 Sec. 26. Section 20-831, Arizona Revised Statutes, is amended to read:

25 20-831. Annual statement; examination

26 A. ~~Not later than March 31 of each year every~~ EACH corporation shall  
27 ~~file with~~ SUBMIT ANNUALLY TO the director a statement of its financial  
28 condition, transactions and affairs as of the preceding December 31 as  
29 prescribed in sections 20-223 and 20-234 and ~~shall pay~~ the annual renewal fee  
30 prescribed in section 20-167. THE DIRECTOR MUST RECEIVE THE STATEMENT AND  
31 PAYMENT ON OR BEFORE MARCH 1 OF EACH YEAR.

32 B. At the time of filing its annual statement as required by section  
33 20-223, a corporation shall also disclose to the director, in the form or  
34 manner prescribed by the director, information similar to that required of  
35 other corporations transacting business in this state pursuant to title 10,  
36 chapter 39, article 2 that is not already filed with or available to the  
37 director.

38 C. The director may appoint an examiner, deputy examiner or other  
39 person to examine into the affairs of the corporation who has the power of  
40 visitation and examination, is entitled to free access to all the books,  
41 papers and documents relating to the business of the corporation and may  
42 summon the officers, agents or employees or any other persons and require  
43 them to testify under oath concerning the affairs, transactions and condition  
44 of the corporation. An examination shall be conducted at least every five  
45 years.

1 D. The corporation shall pay the cost of the examination and audit,  
2 but the corporation is not required to pay for more than one audit or  
3 examination in any one year. The corporation shall pay the costs as provided  
4 for insurers pursuant to section 20-159.

5 E. **IF THE DIRECTOR DOES NOT RECEIVE FROM** a corporation ~~that fails to~~  
6 ~~timely file~~ the annual statement required under subsection A of this section  
7 or ~~fails to provide~~ **THE** information required under subsection B of this  
8 section **ON OR BEFORE MARCH 1, THE CORPORATION** is subject to the penalties  
9 prescribed in section 20-223.

10 Sec. 27. Section 20-885, Arizona Revised Statutes, is amended to read:

11 **20-885. Reports**

12 ~~Each fraternal benefit society shall file reports as follows:~~

13 ~~1. A. Unless the director extends the time for filing for good cause~~  
14 ~~shown, on or before March 1~~ Each **FRATERNAL BENEFIT** society transacting  
15 business in this state shall **SUBMIT** annually ~~file with~~ **TO** the director **ALL OF**  
16 **THE FOLLOWING:**

17 1. A true statement of its financial condition, transactions and  
18 affairs for the preceding calendar year and ~~shall pay~~ the fee prescribed by  
19 section 20-167 for filing the statement. The statement shall be in the  
20 general form and context that is approved by the national association of  
21 insurance commissioners for fraternal benefit societies, supplemented by any  
22 additional information that the director requires.

23 2. ~~At the time of filing its annual statement pursuant to paragraph 1~~  
24 ~~of this section, each society shall also file with the director~~ A valuation  
25 of its certificates in force as of the preceding December 31. On a showing  
26 of good cause the director may extend the time for filing the valuation for a  
27 period of not more than two calendar months. The valuation shall be  
28 conducted pursuant to section 20-884. A qualified actuary shall certify the  
29 valuation and underlying data, ~~or, at the expense of the society, an actuary~~  
30 of the department of insurance in the domiciliary state of the society shall  
31 verify the valuation and underlying data.

32 **B. THE DIRECTOR MUST RECEIVE THE SUBMISSIONS REQUIRED BY SUBSECTION A**  
33 **OF THIS SECTION ON OR BEFORE MARCH 1 OF EACH YEAR.**

34 Sec. 28. Section 20-1009, Arizona Revised Statutes, is amended to  
35 read:

36 **20-1009. Annual report to director**

37 A. ~~Every~~ **EACH** prepaid dental plan organization **SHALL SUBMIT** annually  
38 ~~on or before the first day of March shall file with~~ **TO** the director a report  
39 of its financial condition, transactions and affairs as of the preceding  
40 December 31 as prescribed in sections 20-223 and 20-234 and ~~shall pay~~ the  
41 annual renewal fee prescribed in section 20-167. **THE DIRECTOR MUST RECEIVE**  
42 **THE REPORT AND PAYMENT ON OR BEFORE MARCH 1 OF EACH YEAR.**

43 B. The prepaid dental plan organization shall also submit any reports  
44 required by chapter 2, article 12 of this title.

1 C. IF THE DIRECTOR DOES NOT RECEIVE FROM a prepaid dental plan  
2 organization ~~that fails to timely file~~ the annual report required under  
3 subsection A of this section ON OR BEFORE MARCH 1, THE PREPAID DENTAL PLAN  
4 ORGANIZATION is subject to the penalties prescribed in section 20-223.

5 Sec. 29. Section 20-1059, Arizona Revised Statutes, is amended to  
6 read:

7 20-1059. Annual report to director

8 A. ~~Every~~ EACH health care services organization SHALL SUBMIT annually  
9 ~~on or before March 31 shall file with~~ TO the director a report of its  
10 financial condition, transactions and affairs as of the preceding December 31  
11 as prescribed in sections 20-223 and 20-234 and ~~shall pay~~ the annual renewal  
12 fee prescribed in section 20-167. THE DIRECTOR MUST RECEIVE THE REPORT AND  
13 PAYMENT ON OR BEFORE MARCH 1 OF EACH YEAR.

14 B. Unless preempted under federal law or unless federal law imposes  
15 greater requirements than this section, this section applies to a provider  
16 sponsored health care services organization.

17 C. IF THE DIRECTOR DOES NOT RECEIVE FROM a health care services  
18 organization ~~that fails to timely file~~ the annual report required under  
19 subsection A of this section ON OR BEFORE MARCH 1, THE HEALTH CARE SERVICES  
20 ORGANIZATION is subject to the penalties prescribed in section 20-223.

21 Sec. 30. Section 20-1096.05, Arizona Revised Statutes, is amended to  
22 read:

23 20-1096.05. Annual reports; renewal of certificate of  
24 authority

25 A. ~~No later than April 1 of each year, a~~ EACH mechanical reimbursement  
26 reinsurer shall submit ANNUALLY to the director a report written in a form  
27 designated by the director and signed by the president and secretary of the  
28 reinsurer that clearly indicates the method being used to determine policy  
29 and loss reserves and the amount in the policy and loss reserves. THE  
30 DIRECTOR MUST RECEIVE THE REPORT ON OR BEFORE MARCH 1 OF EACH YEAR.

31 B. The reinsurer shall accompany the annual report with an application  
32 for renewal of the certificate of authority, together with the fee prescribed  
33 in section 20-167.

34 Sec. 31. Section 20-1561, Arizona Revised Statutes, is amended to  
35 read:

36 20-1561. Law governing title insurers

37 A. This article applies to all title insurers, title insurance rating  
38 organizations, title insurance agents, applicants for title insurance and  
39 policyholders and to all persons and business entities engaged in the  
40 business of title insurance.

41 B. To the extent not modified by this article, title insurers are  
42 subject to and governed by the other applicable sections of this title.

43 C. Any new insurance law enacted after January 1, 1968 does not apply  
44 to title insurers, title insurance rating organizations, title insurance

1 agents, applicants for title insurance, title insurance policyholders or  
2 title insurance, except by express reference therein.

3 D. Section 20-223 applies to title insurers.

4 E. Title insurance agents shall be licensed pursuant to this  
5 article. Chapter 2, article 3 of this title does not apply to licensure of  
6 title agents except by specific reference in that article, except that to the  
7 extent not inconsistent with this article, section 20-285, section 20-286,  
8 subsections C and D and sections 20-287, 20-289, 20-289.01, 20-290, 20-291,  
9 20-292, 20-295, 20-296, 20-297, 20-298, ~~20-299~~, 20-300 and 20-301 apply to  
10 title insurance agents.

11 Sec. 32. Section 33-803, Arizona Revised Statutes, is amended to read:

12 ~~33-803.~~ Trustee of trust deed; qualifications

13 A. Except as provided in subsection B, the trustee of a trust deed  
14 shall be:

15 1. An association or corporation doing business under the laws of this  
16 state as a bank, trust company, savings and loan association, credit union,  
17 insurance company, escrow agent or consumer lender.

18 2. A person who is a member of the state bar of Arizona.

19 3. A person who is a licensed real estate broker under the laws of  
20 this state.

21 4. A person who is a licensed insurance producer **OR A LICENSED TITLE**  
22 **INSURANCE AGENT** under the laws of this state.

23 5. An association or corporation that is licensed, chartered or  
24 regulated by the federal deposit insurance corporation, the comptroller of  
25 the currency, the federal home loan bank, the national credit union  
26 administration, the farm credit administration, the federal reserve board or  
27 any successors.

28 6. The parent corporation of any association or corporation referred  
29 to in this subsection or any corporation all the stock of which is owned by  
30 or held solely for the benefit of any such association or corporation  
31 referred to in this subsection.

32 B. An individual trustee of a trust deed who qualifies under  
33 subsection A shall not be the beneficiary of the trust, but such restriction  
34 shall not preclude a corporate or association trustee that qualifies under  
35 subsection A and while acting in good faith from being the beneficiary, or  
36 after appointment from acquiring the interest of the beneficiary by  
37 succession, conveyance, grant, descent or devise.

38 C. A trustee of a trust deed who qualifies under subsection A shall  
39 not lend or delegate the trustee's name or corporate capacity to any  
40 individual or entity that does not qualify as a trustee of a trust deed. An  
41 individual, company, association or corporation shall not circumvent the  
42 requirements of subsection A by acting in concert with a nonqualifying  
43 trustee.